

PUBLIC MEETING MINUTES:	<b>Special Law Enforcement Assistance Fund</b>
MEETING DATE AND TIME:	<b>Tuesday, January 9, 2018 at 2:00 PM</b>
PLACE:	<b>Dover Police Department – Assembly Room 400 S Queen St. – Dover, DE 19904</b>

**SLEAF Committee Members Present:**

- (1) Sean Lugg, State Prosecutor, Delaware Department of Justice
- (2) Major Robert Hudson, Delaware State Police
- (3) Captain Benjamin Feldmann, New Castle County Police Department
- (4) Chief Robert Tracy, Wilmington Police Department
- (5) Chief Marvin Mailey, Jr., Dover City Police Department
- (6) Chief Laura Giles, New Castle County
- (7) Jeffrey Horvath, Kent County
- (8) Chief Kenneth Brown, Sussex County

**Administrative Staff Present:**

Kimberly Moro, Delaware Department of Justice  
Andrea Godfrey, Delaware Department of Justice  
Patricia Davis, DAG, Delaware Department of Justice

**Call to Order**

State Prosecutor Sean Lugg called the meeting to order at 2:02 PM.

**Opening Remarks**

Mr. Lugg acknowledged this is a special meeting to address procedures, policies and guidelines related to the management of the SLEAF as designated in Delaware Code. Mr. Lugg indicated various attachments available to those present (agenda for this meeting, minutes from the previous meeting, the Delaware statutes related to the existence and management of SLEAF and draft proposal of SLEAF guidelines).

**Agenda**

**Review and Approval of Minutes**

Following confirmation of the accuracy of the previous meeting's minutes, Major Hudson moved to approve the December 5, 2017 meeting minutes and Capt. Feldmann seconded the motion. Upon motion duly made and seconded, the SLEAF Committee unanimously approved the minutes.

## **Fiscal Year Deadlines, Extensions and the Timing of Awards**

Mr. Lugg request SLEAF counsel, Ms. Davis, to lead the discussion. Other sources of aid funding for law enforcement agencies provide for 12 *calendar* months in which to spend the funds allotted to them. SLEAF is worded differently.

Under 11 Del. C. §4114, if an agency receives funds from SLEAF it must be earmarked for or allocated to an expenditure within the *fiscal* year (July 1- June 30). If not earmarked/allocated by June 30 a one-time extension of up to 120 days is permitted. Therefore, those agencies being granted monies during the “Fall” meetings (September timeframe) are receiving the funds about 4-6 weeks later and have until June 30 to spend it. However, those agencies being granted monies during the “Spring” meeting, receive their funding early/mid June and have a significantly reduced timeframe for expenditure with only 120 additional days available if they request an extension. Ms. Davis recommended the following procedural changes to address this while still working within the confines of the statute.

**Setting up the quarterly SLEAF meeting dates at the start of the year** as was approved at the December 5, 2017 meeting, set SLEAF Committee meetings (March, June, September and December) will provide agencies an opportunity to plan their applications and coordinate the acceptance of granted funds and subsequent allocation of same in a more timely fashion. Also, those applications approved at the June meeting will not receive the funds until after July 1, thus providing them the full fiscal year to earmark or allocate the funds.

**“Earmarked/Allocated to”** is important to define and understand because the statue contemplates that anything that isn’t “earmarked/allocated” within the allotted time must be returned to SLEAF for redistribution to other future applications. The language of the Code contemplates that agencies should not be holding on to large sums of money for extended periods of time.

The Committee is tasked with defining those terms. Ms. Davis suggests the criteria could be the acquisition of a Purchase Order (PO). To prevent the existence of POs for extended time period, Ms. Davis suggests clarification that monies in PO status must be for a finite timeframe to be decided by the Committee.

Mr. Horvath is in favor of the POs and finite timing, but raises a concern as to what that finite time should be, as there are times when the financial resolution of the PO is dependent upon the work being done, item being delivered, etc. that may be beyond the control the agency themselves. Mr. Horvath references an in-car camera issue he experienced in which the production of the camera was delayed causing him to delay payment. At the suggestion of Ms. Davis, Mr. Horvath agreed that the finite timeframe for a standing PO was one (1) year would be sufficient.

Mr. Lugg agrees with the year term but inquires as to the process if the year is exceeded. Must it return to SLEAF or is the Committee permitted to grant an extension based on circumstances? Ms. Davis indicates that since the funds had technically been allocated, by statute they are not required to be returned to SLEAF.

Ms. Davis indicated this particular guideline along with other items to be discussed will be gathered by her into a drafted guideline which would be discussed and voted upon at a later meeting. At Mr. Horvath’s request, the year timeframe will begin on the date the PO is cut.

## **Definition of “Law Enforcement Agency” and Pass-through Requests**

Mr. Lugg suggests defining “law enforcement agency” (LEA) is difficult to do without simultaneously discussing the “pass-through” concept. So items 3 and 4 of the Agenda have been combined herein. 11 Del. C. §4110 is the governing body for this discussion. SLEAF are only available to LEAs.

The primary entities prompting this discussion are Delaware Police Chiefs Council (DPCC) and Crimestoppers. DPCC funding requests are routed through Dover or Camden PD and Crimestoppers through Delaware State Police (DSP). Mr. Lugg suggests the primary focus is: are these, either independently or jointly, considered LEAs? Mr. Horvath indicates, by definition, his agency, DPCC is not an LEA. They are a gathering body composed of police chiefs for the purpose of providing uniform coordination between all police agencies within Delaware. They do not make active arrests or any of the other statutory activities defining an LEA. The Committee provides no contrary comments. Mr. Lugg asks for thoughts on “Crimestoppers”. Mr. Horvath indicates Crimestoppers has traditionally used DSP as a “pass-through” since they have not been thought of or recognized as an LEA.

Mr. Lugg indicates the Committee appears to be in agreement that by definition, neither group is considered an LEA. The question then becomes how the Committee deals with the pass-through issue, as it is clear both agencies support law enforcement and are vital to the cause.

Ms. Davis, as SLEAF Committee counsel, raises serious concerns about the use of pass-throughs. The statute permits the State Treasury to issue checks to law enforcement agencies. Those agencies are then turning the funding over to non-profit organizations that are not in and of themselves, eligible for that funding. If the Committee feels strongly about pass-throughs or the creation of a more appropriate way to handle this, Ms. Davis has suggestions, but those come with cautions as well.

Mr. Horvath informs the Committee that he and Chief Bryson are actively pursuing avenues that if successful, would provide independent financial sources and would alleviate the need for both DPCC and Crimestoppers to request funding from SLEAF. There is no certainty this will come to fruition, however, if there is no SLEAF or outside funding source, DPCC and Crimestoppers will cease to exist.

Ms. Davis suggests, if that is the case and the Committee feels strongly about the need for these entities, the best course of action is a legislative change to the statute to include these organizations either by name or by purpose.

Mr. Lugg asks if these agencies could fall under the umbrella of “use to law enforcement agency” as the DPCC provide statewide training and policy standards to all officers. Ms. Davis agrees that is very compelling policy argument, however, Section 4113, permits the disbursement of funds *only to law enforcement agencies*. While technically the Treasurer is providing the funds to LEAs (DSP or Dover/Camden PD), those agencies are handing over to a non-LEA and that does not meet the terms of the Code and appears problematic.

In summary, Mr. Lugg indicates, and the Committee members agree, that DPCC and Crimestoppers, by definition under 11 Del. C. §4110, are not law enforcement agencies and the use of pass-throughs

under Section 4113 are not permissible. Legislation is an option. The Committee is asked to think on these matters and offer suggestions for the March 13, 2018 meeting where further discussion will be had and a decision made. Ms. Davis will draft legislative options for distribution prior to March 13, 2018.

Major Hudson agrees that both DPCC and Crimestoppers are valuable to all facets of law enforcement statewide, routinely, however the auditing issues that result from these pass-throughs are significant. DSP believes they have internally crafted measures to protect themselves in the audit process however, it is an area of great concern. The alternative though, the loss of these 2 entities, would be terrible. Major Hudson's concern with requesting a legislative change is the precedent that would set regarding other organizations petitioning for status as well.

Mr. Lugg raises the possibility of contracting. Ms. Davis made a note to research the option and present her findings as well as a possible contract draft to the Committee in time for the March 13, 2018 meeting. Even with contracting, there may be audit issues, so detailed spending documentation needs to be a requirement. Capt. Feldmann agrees a detailed tally would be the responsibility of the LEA that maintains the contract. Major Hudson has some concerns as DSP has experienced difficulties getting those details. Major has concerns about the potential for many to now want to be a contract agency. Mr. Lugg and Ms. Davis believe requiring detailed specifics and "vetting" those groups applying for contract status will help maintain control.

### **Proxies and Meeting Attendance**

Ms. Davis requests that the agencies make a concerted effort to send the same person to each meeting throughout the year. The use of proxies is not illegal and not impermissible under the statute, but it not conducive to having the most effective meetings. When attendance is not consistent, a significant amount of valuable historical knowledge is lost. Ms. Davis can only request that attendance be consistent. Chief Mailey expresses concern that Committee members cannot foresee future conflicts that may challenge the ability to be consistent but believes a limited proxy plan would be appropriate. Ms. Davis reiterates this is only an ask, but stresses as counsel to the Committee, consistent attendance will limit the possibility of arbitrariness in decision making which can only benefit the Committee.

### **Discussion of Application Form**

Prior to the December 5, 2017 meeting, full copies of the applications under review were provided to the Committee. This will be the standard going forward.

As a result of the continuing SLEAF audit, Ms. Davis suggests requiring more detail regarding the requested purchase as well as documentation as to how the agency arrived at the funding total being requested *i.e.* print out of the ordering website, showing the price, details of the purchase, etc. Training requests should also have some type of description or fee schedule for speakers, or anything in writing that narrows the focus.

Mr. Lugg points out that training may be harder to justify with documentation at such an early stage, however, an attempt should be made to provide more detail.

Major Hudson agrees that a detailed breakdown is helpful to the Committee but also aids in the audit process as well.

The Committee agreed with Ms. Davis' offer to draft proposed regulations requiring more detailed applications and potentially a newly drafted application itself. Ms. Davis would provide to the Committee for discussion at the March meeting.

### **Training**

Ms. Davis indicates the Committee sees two (2) types of request for training funds. 1) requests for large sums of money ("pots") to be used for unspecified trainings throughout the year/quarter. 2) requests for specific amounts of money to cover specific officers for a specific training(s). Either is permissible under the guidelines. Ms. Davis suggests the Committee determine if they choose to allow for both or limit to one or the other.

Major Hudson prefers retaining the large sum option, though agrees the detailed version is most helpful. As an example, the trainings for DSP helicopter pilots changes often and when it does, requiring a large degree of specificity could negate their ability to use funds they already obtained.

Capt. Feldmann agrees the SLEAF Committee is far better served with the detailed requests however, that may be too cumbersome and restricting to agencies who change training plans or learn of new trainings after the fact or attend seminars that cannot be qualified on paper. They would be prohibited from using SLEAF.

WPD is in favor of requiring a detailed account just prior to the training or immediately following.

Ms. Davis indicates it is permissible to have maintain the lump sum option. An agency may request a sum and label such as their training budget for the year. Ms. Davis only asks the Committee to decide as a whole to keep/ not keep both options.

Chief Giles requests wording that requires the unused funds being returned to SLEAF in a reasonable timeframe.

Ms. Davis suggests flagging these large sum requests and making them an end of fiscal year agenda item to review the expenditure requests. Ms. Godfrey suggests making this part of the approval requirements at the time of request. If the Committee sees no issues, the "pot" option remains. If there are concerns, the idea can be revisited. Chief Tracy is in favor of this idea. Chief Giles suggests requesting a status report at the March meeting to see issues in advance of the June end of fiscal year meeting.

Ms. Davis reminds that these options will prevent the pooling of funds over the course of years. Ms. Davis reminds that since the statute provides for only one (1) 120 day extension, that indicates the original intent was to spend the money granted to you for what you intended and return the rest to the fund. Ms. Davis will work to provide a list for the March meeting of agencies with large pots of money and attempt to get the detailed status of funds report from them. As the Committee is taking a "wait and see" approach to the use/non-use of lump sum training distributions, Ms. Davis will not include that in the regulations draft for the March meeting unless or until the Committee chooses to rule definitively.

## **Travel Requests**

Ms. Davis informs the Committee that there are other funding sources available for travel that come under the State Travel system. Those systems are seeing issues with travel requests. Officers were using their State funding options to book extra rooms for family members. The SLEAF audit does not appear to be having this issues, however, it needs to be discussed. The State agencies are already under strict travel policies that supersede SLEAF, but for those not required to follow the State restrictions, SLEAF must set guidelines. Ms. Davis asks members to consider parameters for travel. Ms. Davis has the latest State Aid to Local Law Enforcement (SALLE) and Fund to Combat Violent Crime guidelines and suggests the Committee consider adopting the same or a version of same. Mr. Lugg ask Ms. Davis to circulate copies of the aforementioned guidelines prior to the March 13<sup>th</sup> meeting so the Committee may review and offer suggestions when they convene next. The Committee agrees.

## **Regulations**

Mr. Lugg reminds the Committee and those in attendance that a draft of the Regulations was available at the table for everyone to have. He notes there are areas indicated where there are questions, some of which have since been decided (*i.e.* the permissibility of purchasing K9s under SLEAF).

A larger concern is discussion of funding used for salaries, overhead and budget related items which are not permissible. SLEAF is not to be used to support specific things law enforcement is expected to do on a routine basis during the course of business; it is designed to provide that “little bit more” to help law enforcement achieve more. Mr. Lugg believes the lean towards more detailed applications will aid the Committee and the applying agencies in determining the sometimes fine line between the two.

Mr. Horvath suggests “equipment” be further detailed to “fundamental” vs “specialized”. Mr. Lugg refers to Section 1.3.1 for that but warns of narrowing to the extent that items such as body armor are caught in the cross fire of definition and agencies expect SLEAF to fund purchase only to learn SLEAF is not financially able.

Mr. Lugg reads from Section 1.3.1 asking the Committee to review and determine if they wish to change the wording from “equipment for officer safety” to “specialized equipment.”

Mr. Lugg then refers to 2.2.6 discussing funding upgrades to department equipment. Mr. Lugg asks for thoughts on any changes (additions, deletions, clarification) or if there is a desire to leave the wording and continue to discuss on a case by case basis.

Major Hudson suggests case by case discussions. Let the Committee hear and discuss in an open forum each time, as each agencies brings different circumstances to the table each time. Committee tends to agree.

Captain Feldmann raises the discussion of the Committee’s ability to re-coup equipment previously purchased with SLEAF from agencies that are no longer in existence. Is there a mechanism available to the Committee? Mr. Lugg and Ms. Davis confirm there is no such mechanism within SLEAF at

this time. In the scenario presented by Capt. Feldmann, the township would be permitted to re-sell items originally purchased through SLEAF for their now non-existent police department and not be required to return those proceeds to SLEAF. Monetary provisions awarded to the agency before its disbandment but prior to the actual purchase must be returned however.

Ms. Davis has the guidelines for Violent Crime Board and SALLE and will provide for the Committee's review. Ms. Davis will also review the statutes governing those entities and see where they may be similar/distinctly different from those of SLEAF and create a suggested version for SLEAF. Chief Giles recommends the applications provide disclaimers too.

Mr. Lugg then begins discussion on Section 3.4.3 – providing clarity to applicants as to what is more likely to be granted SLEAF and what isn't. For example, those items to be presented at a disbursement meeting: would the Committee wish the Chairperson to prioritize the request potential and present in that order or present each request as it appears sequentially on the spreadsheet provided prior to the start of the meeting? Mr. Lugg feels some prioritization may be needed, as requests always exceed available funding, however, if prioritization is chosen, it must have guidelines. Chief Mailey indicates if the Committee permits withdrawals and tabling at the onset of the meeting and applicants are aware of their needs vs the severity of others, the sequential method would work. Chief Hudson agrees.

Mr. Horvath agrees however he asks that those items that were requested tabled from last meeting for the reasons Chief Mailey mentioned, be given priority at the subsequent meeting. Committee agrees and that is automatically remedied in the sequential sorting of the new spreadsheet. Dissemination of the actual applications to the Committee prior to the meeting will also raise awareness of the wants vs needs decisions.

### **Single Items Application**

Mr. Lugg raises the discussion that limiting one request item per application will be most helpful for recordkeeping and auditing purposes. The Committee agrees. Ms. Davis asks the Committee to determine if they wish this to be made part of the regulations, as it does benefit the Committee to do so for the purposes mentioned by Mr. Lugg. Ms. Davis will include in her draft of the Regulations for the March 13, 2018 meeting.

### **Public Comment**

None.

### **Next Scheduled Meeting**

March 13, 2018. Disbursement Meeting.

### **Adjournment**

With no further business before the SLEAF Committee, Mr. Lugg moved to adjourn the meeting, Capt. Feldmann seconded the motion. The motion carried unanimously. The meeting adjourned at 3:29 PM.